

DETAILED ACTION

This communication is a first office action on the merits. Claims 1-9, as filed are currently pending and have been considered below.

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 38 in Figs. 1, 2, 4-8, and 11. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities:

On page 2, lines 1-2, the phrase "equipment such its case." should be replaced by --equipment such as its case.--.

On page 2, line 22; page 7, line 3 and 26; the phrase "predetermined R" is not clear and should be clarified.

On page 3, line 16, the term "deprived" should be replaced by --derived--.

On page 4, in the Brief Description of Drawings a brief description of Figures 11 and 12 are missing.

On page 7, lines 23-24 the phrases "continued to each other" should be replaced by --continuous to each other--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 2-3, and 6-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase "the connection portion" renders the claims indefinite as it is unclear which connection portion is being referred to.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1 & 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Fuchs (US 5,913,435).

Regarding claim 1, Fuchs discloses a closure with snap-type hinge cap comprising:

a hinge portion (13 and 25) that connects a fixed member (11) and a movable member (12) to each other and allows the movable member (12) to swing relative to the fixed member (11, Fig 2 and 5 show different orientations states of swinging); and

a pair of connection portions (via end portion of 25 adjacent to 26) [adapted to respectively connect the hinge portion to the fixed member and the movable member]*,

wherein the fixed member (11) has a recessed portion (26) on a surface thereof, and the connection portion (end portion of 25 adjacent to 26) on the side of the fixed member (11) is extendedly provided adjacent to the recessed portion (26, Fig. 1).

Examiner's note*: the above (and below) statements in brackets are examples of intended use failing to limit the structure of the claimed invention. The prior art must only be capable of performing said functional recitations to be applicable and in the instant case, the prior art of Fuchs is indeed capable. Note that it has been held that a

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recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

Regarding claim 5, Fuchs discloses a closure with snap-type hinge cap comprising a hinge structure where

the hinge structure comprises:

a hinge portion (13 and 25) that connects a fixed member (11) and a movable member (12) to each other and allows the movable member (12) to swing relative to the fixed member (11, Fig 2 and 5 show different orientations states of swinging); and

a pair of connection portions (via end portion of 25 adjacent to 26) [adapted to respectively connect the hinge portion to the fixed member and the movable member]*,

wherein the fixed member (11) has a recessed portion (26) on a surface thereof, and the connection portion (end portion of 25 adjacent to 26) on the side of the fixed member (11) is extendedly provided adjacent to the recessed portion (26, Fig. 1).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 2-4 and 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fuchs as applied to claims 1 and 5 above, and further in view of Applicant's Admitted Prior Art (hereafter referred to as AAPA).

Regarding claims 2 and 6, Fuchs discloses all the structural elements as seen above in claims 1 and 5 above and discloses the connection portion (25) and the hinge portion (13) are integrally formed (Column 1, lines 9-11).

However, Fuchs fails to explicitly teach the parts are formed by molding elastically deformable synthetic resin.

AAPA teaches the connection portion and hinge portions are integrally molded with a deformable synthetic resin (Page 2, line 18-19).

From this teaching of AAPA, it would have been obvious to one skilled in the art at the time of the invention to modify the hinge cap of Fuchs to create the piece with an elastically deformable synthetic resin for durability and flexibility.

Regarding claims 3 and 7, Fuchs discloses the connection portion (25), hinge portion (13), the fixed member (11) and the movable member (12) are integrally formed (Column 1, lines 9-11).

Regarding claims 4 and 8, Fuchs discloses all the structural elements as disclosed above in claim 1 and 5.

AAPA further teaches wherein the hinge portion and at least one of the connection portions have their side surfaces smoothly continued to each other (Page 2, lines 19-22).

From this teaching of AAPA, it would have been obvious to one skilled in the art at the time of the invention to further modify the hinge cap of Fuchs to have the side surfaces smoothly continued to each other to reduce stress concentrations.

Regarding claim 9, AAPA further teaches the fixed member is a support frame (30), and the movable member is an operation button (10).

From this teaching of AAPA, it would have been obvious to one skilled in the art at the time of the invention to further modify the hinge cap of Fuchs to have the members be a support frame and operation button as an obvious application of the hinge structure.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See Form 892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL LEE whose telephone number is (571)270-5735. The examiner can normally be reached on M-F 7:30-5:00 Alternate Fridays Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor Batson can be reached on 571-272-6987. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. L./
Examiner, Art Unit 3677

/Victor Batson/
Supervisory Patent Examiner, Art Unit 3677